

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15154 of John Jennings, pursuant to 11 DCMR 3107.2, for a variance from the minimum lot occupancy requirements (Sub-section 403.2) for a garage addition in an R-5-B District at premises 1734 Q Street, N.W., (Square 156, Lot 237).

HEARING DATE; October 18, 1989
DECISION DATE: December 6, 1989

FINDINGS OF FACT:

1. The property is located on the south side of Q Street between 17th and 18th Streets, N.W. It is zoned R-5-B.
2. The property is rectangular in shape with a frontage of 20 feet along Q Street and a depth of 95.5 feet. The total lot area of the site is 1,910 square feet.
3. The property is improved with a three story brick row structure which contains three apartments.
4. The area surrounding the site is developed with similar row structures, primarily used for multi-family purposes.
5. The applicant is seeking a variance from the lot occupancy requirements to allow the construction of a two-car garage with attic storage space at the rear of the site. The garage was constructed without proper building permits and exceeds the 60 percent or 1,146 square feet of lot occupancy permitted in the R-5-B District by 3.37 percent or 64.4 square feet.
6. The garage measures 20 feet by 20 feet for a total area of 400 square feet and can accommodate two vehicles. Access to the garage is via a 12 foot wide public alley adjacent to the rear of the site.
7. The Zoning Regulations for the R-5-B District require the provision of one parking space per two dwelling units. The two spaces contained in the garage meet the requirements for the existing three-unit apartment house.
8. In addition to providing the required parking, the applicant testified that the garage provides a measure of security which is needed due to the occurrence of muggings and vandalism which have taken place in the alley. In addition, the garage provides needed storage space for residents of the main building.
9. The existing parking congestion in the immediate area makes it difficult to find on-street parking in close proximity to

the site. The provision of two parking spaces on the subject site would reduce the demand for on-street parking by the occupants of the existing apartment building.

10. The applicant testified that the strict application of the Zoning Regulations would result in practical difficulties upon the owner in that modifying the square footage of the garage to comply with the lot occupancy requirements would require reducing the depth of the garage by approximately 3.22 feet or narrowing the width of the garage. If the depth of the garage were reduced, the interior depth of the garage would measure approximately 16 feet which would not be sufficient to accommodate space to store a vehicle and to maneuver around the vehicle with the garage door closed. If the width of the garage is reduced, the applicant must provide a minimum side yard of eight feet. The provision of an eight-foot side yard would result in the elimination of one parking space, would create a narrow, unusable alley-type yard space, and would negate the enhanced security which would be provided by a structure which goes from lot line to lot line.

11. The garage complies with the set back and height provisions for accessory structures in the R-5-B District.

12. Advisory Neighborhood Commission (ANC) 2B, by letter dated October 9, 1989, took no position on the application.

13. The Office of Planning, by memorandum dated October 11, 1989, recommended that the application be approved. The OP was of the opinion that the garage would not have an adverse impact on the neighborhood and that it is not visually unattractive.

14. The D.C. Department of Public Works, by memorandum dated September 20, 1989, indicated that it does not foresee any objectionable adverse impacts from the proposal and that it has no objection to the application.

15. The D.C. Fire Department, Department of Finance and Revenue, and the Metropolitan Police Department offered no objection to the application.

16. The record contains several letters from nearby property owners in support of the application. The support was generally based on the attractive appearance of the structure which improves the aesthetics of the alley and because the structure acts as a deterrent to crime.

17. The owners of the adjacent property at 1736 Q Street, N.W., appeared at the public hearing and submitted a petition in opposition to the application. The opposition was generally based on the following:

- a. The excessive size of the structure cuts off light and air to the rear yard of 1736 Q Street, "looms" 8 to 9 feet above their fence for more than half the length of their yard and is not in keeping with the size and design of other accessory buildings in the alley.
- b. The granting of the application would create a damaging zoning precedent. It is poor public policy for the Board to retroactively approve the case, thus sanctioning the applicant's violation of the building permit and zoning process.
- c. The garage structure may encroach on the opposition's property. The necessary surveys and wall checks to determine whether the garage violates the building line has not yet been accomplished.

18. In addressing the issues and concerns expressed by the opposition, the Board notes that each case before the Board is decided on the basis of its individual merits and is not precedential in nature. The Board further notes that the garage complies with the height and set back requirements for accessory structures in the R-5-B District and that reducing the size of the garage to comply with the matter-of-right lot occupancy requirements would have a minimal effect on the impact of the structure on light and air to the adjoining property. The Board is of the opinion that the applicant acted less than diligently in proceeding with construction of the garage. If the applicant had acted more responsibly, building permits would have been applied for and any necessary variance relief would have been sought prior to any construction on the site. As to the issue of whether the subject garage encroaches on the neighboring property, the Board finds that such issue is beyond the jurisdiction of the Board and notes that a proper determination should be sought through the appropriate agencies of the D.C. Government.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and the evidence of record, the Board concludes that the applicant is seeking an area variance, the granting of which requires evidence of a practical difficulty upon the owner arising out of some extraordinary or exceptional situation or condition of the property. The Board further must find that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan. The Board concludes that the applicant has met the requisite burden of proof.

The Board concludes that the requested variance of 3.37 percent is minor in nature. The proposed garage complies with all

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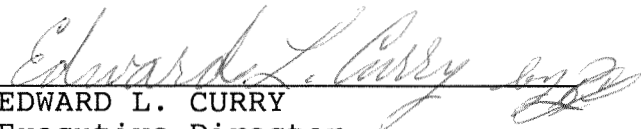
other provisions of the Zoning Regulations. The strict application of the lot occupancy requirements would create a practical difficulty upon the owner as set forth in Finding of Fact No. 10.

The Board further concludes that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan, accordingly, it is hereby **ORDERED** that the application is **GRANTED**.

VOTE: 4-0 (Charles R. Norris, Carrie L. Thornhill, Paula L. Jewell and William F. McIntosh to grant).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER: _____

JUN 28 1991

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHT ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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APPLICATION/APPEAL NO. 15154

As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that a copy of the Order in this application/appeal dated JUN 28 1991 has been mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

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EDWARD L. CURRY
Executive Director

DATE: JUN 28 1991